

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

ASUS COMPUTER INTERNATIONAL, et  
al.,

Plaintiffs,

v.

INTERDIGITAL, INC., et al.,

Defendants.

Case No. [15-cv-01716-BLF](#)

**ORDER REQUESTING  
SUPPLEMENTAL BRIEFING ON  
DEFENDANTS' MOTION TO COMPEL  
ARBITRATION AND DISMISS CLAIMS  
FOR LACK OF SUBJECT MATTER  
JURISDICTION, OR IN THE  
ALTERNATIVE, STAY PROCEEDINGS  
PENDING ARBITRATION**

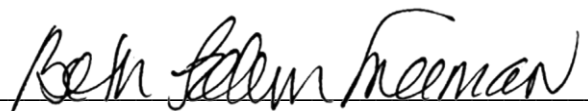
This order concerns Defendants' pending motion to compel arbitration and dismiss claims for lack of subject matter jurisdiction, or in the alternative, stay proceedings pending arbitration. *See* ECF No. 37. In their briefing on the motion and at oral argument, the parties agreed that Delaware state law governs the threshold question of whether the Court or arbitrator decides arbitrability.

On August 11, 2015, the Ninth Circuit issued a decision in *Brennan v. Opus Bank*, --- F.3d ---, 2015 WL 4731378 (9th Cir. 2015). Contrary to the parties' arguments, this Ninth Circuit decision appears to hold that federal law should govern the question of whether the parties clearly and unmistakably agreed to have an arbitrator decide the threshold question of arbitrability.

Accordingly, each side is requested to file a supplemental letter brief of no more than two pages, double spaced, addressing the impact of *Brennan* on the Court's determination of whether the parties clearly and unmistakably agreed that non-federal law applies to determine arbitrability. The parties shall submit the supplemental letter briefs, **on or before August 17, 2015**. There will be no replies to these submissions.

**IT IS SO ORDERED.**

Dated: August 12, 2015

  
BETH LABSON FREEMAN  
United States District Judge